

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:11-CR-89-BR

UNITED STATES OF AMERICA)
)
 v.)
)
WILLIE DONNELL MCNAIR)

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of Court endorsed hereon, the United States Attorney for the Eastern District of North Carolina hereby dismisses the indictment pending against the above-captioned defendant for the following reason:

Defendant Willie Donnell McNair was charged by indictment on April 7, 2011 with felon in possession of a firearm, in violation of Title 18, United States Code, Sections 922(g), with the underlying felony offense of possession with intent to distribute, a Class H felony in North Carolina. At the time of conviction, the defendant had a record level of II under the North Carolina Structured Sentencing Regime and faced a mandatory minimum of eight (8) months imprisonment and a maximum of ten (10) months imprisonment. Pursuant to UNITED STATES v. SIMMONS, Case No. 08-4475(4th Cir. August 17, 2011)(en banc), the defendant's prior felony offense does not support the charge of felon in possession of a firearm.

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Leave of Court is granted for the filing of the foregoing dismissal.

Defendant's motion for appropriate relief is

DENIED as moot.



W. EARL BRITT

Senior UNITED STATES DISTRICT JUDGE

Date: 8/26/2011